BEFORE THE DEPARTMENT OF JUSTICE FOR THE STATE OF MONTANA

of Public Advantage Issued to Benefis Healthcare, Great Falls, Montana.) FINDINGS CONCERNING COMPLIANCE WITH TERMS AND CONDITIONS	, , ,)))		
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This matter is before the Department on review of the 2000 Annual Progress Report submitted by Benefis Healthcare under Mont. Code Ann. § 50-4-622 and Mont. Admin. R. 23.18.106. The progress report enables the Department to evaluate the impact of the hospital consolidation on the availability, cost effectiveness, quality, and delivery of health care services and to determine whether the hospital has complied with the terms and conditions of the Certificate of Public Advantage (COPA) approving the consolidation.

I. BACKGROUND¹

The Department of Justice received the hospital's 2000 annual report and audited financial report on April 23, 2000. Thereafter, the Department received the reports of the Department of Public Health and Human Services (PHHS) and of the Independent Auditor.

¹ Complete information regarding the particulars of the July 1996 COPA is available in the COPA itself and in related decisions issued by the Department. Documents are available from the Department on request by interested parties or on the Department of Justice website at http://www.doj.state.mt.us/ago/MERGERLIST.htm.

These submissions follow the March 1999 decision by the Department to grant limited modifications to the COPA regulation. In particular, of eight separate requests the hospital submitted, the Department approved the following two:

- an increase in the staffing ratio, which will allow approximately 74 additional employees. This change was intended to address concerns expressed by the public and Benefis employees relating to availability and responsiveness of nurses and other patient service staff.
- a change in the inflation index on which the revenue cap is calculated, using the Market Basket Inflation (MBI) index that takes into account the price of the materials and services it must purchase, rather than an index based on the change in the prices paid by those who purchase hospital services. It also may use the new inflation index in future calculations of its revenues.²

² The Department's written decision on Benefis' request for modifications to the COPA is available at http://www.doj.mt.us./ago/modrequest.html.

Having reviewed and carefully considered all information provided to date by the hospital, PHHS, and the independent accountant, the Department is prepared to enter preliminary findings regarding the extent of Benefis' compliance with the COPA. However, pursuant to its authority under Mont. Admin. R. 23.18.106(3), the Department will follow its custom of soliciting public comment on Benefis' compliance with the COPA and will accept written comment for a period of 30 days following the issuance of these preliminary findings.

II. COMPLIANCE WITH TERMS AND CONDITIONS

A. Savings and Price Reductions

The Department adopts the report of the independent accountant, Myers and Stauffer LC, and finds that for the period ending December 31, 2000, the hospital has complied with the terms of the cost regulation imposed by the COPA. The Myers and Stauffer report is attached to this document and incorporated by reference.

Among its notable findings, the Myers and Stauffer report concludes that inpatient hospital prices have declined by about 1.7% and outpatient prices by about 11.1% from 1995 levels. As compared to 1999, aggregate prices rose in 2000, with inpatient prices increasing by about 7.5% and outpatient prices increasing by 3.4%. This is despite a temporary price reduction instituted by Benefis during the final three months of the year. This temporary price decrease was to due to Benefis' concern that it may exceed the

Revenue Cap. Many price increases instituted in the first part of the year were temporarily reversed in the last three months of the year. The temporary price decreases were in the 20% to 30% magnitude. In general, prices in 2000 were below premerger levels. Inpatient prices have almost returned to premerger levels.

Actual patient revenues in 2000 were below the COPA's patient revenue cap by approximately \$0.5 million. Combined with prior years, which had a balance of \$0.3 million above the cap, the cumulative deficit balance for the 1996-2000 period stands at \$0.2 million. The hospital is in compliance with the revenue cap conditions imposed by the COPA. The hospital also has been successful in reducing its expenses. Although total expenses for 2000, exclusive of bad debts, increased by approximately 3.6% over 1999 levels, that amount was less than the inflationary rate of 3.8% as measured by the MBI for the corresponding time period. With an adjustment for inflation, expenses for 2000 were lower than 1996 levels by approximately 8%.

B. Quality of Health Care Services

1. PHHS Monitoring

Pursuant to section 2 of the terms and conditions of the COPA, PHHS has overseen the monitoring of quality of care at the hospital since the consolidation occurred. For 2000, PHHS again measured six areas for quality indicators, using consistent measurements in an effort to establish facility-specific benchmarks over time.

The data gathered through the PHHS monitoring devices show the following:

- Maternity Services: During the reporting year, Benefis reported below the national benchmark of 2.6 days for discharges of maternity length of stay.
 The Department finds that the maternity length of stay at Benefis is 1.95 days on average which is below the national benchmark.
 - Orthopedic Services: Similar to the previous reporting period, the hospital showed higher than average rates of infection for post-operative knee and hip patients. The rates may be somewhat skewed as a result of the low number of total surgeries, and no trends were identified as to the cause of the infections. PHHS will continue to monitor closely infection rates for postoperative hips and knees. Since this appears to be a recurring issue in the annual review process, the Department urges the hospital to make every reasonable effort to address this concern.
- 2. Emergency Room: Waiting times for emergency room services decreased slightly from the previous period, with an average wait time of 8.43 minutes, this period as compared to 9.17 minutes last period. PHHS determined that critical emergency patients are seen immediately by a medical practitioner, and that the increase of slightly more than two minutes over the 1997 average waiting time of 6.4 minutes was not statistically

important. There are no established national benchmarks in this area and PHHS has no recommendations. The Department finds the average waiting time to be within acceptable limits, provided critical emergencies are treated immediately, but encourages the hospital to keep its efforts focused on holding down the average waiting time for emergency care.

PHHS also found that Benefis has a lower mortality rate in emergency cardiac cases than the national average, however, Benefis has a higher mortality rate in emergency cardiac cases than the state average. In 2000, the national average mortality rate was 10.73%, while the state average was 8.08% and the Benefis average was 9.93%. The quality of emergency cardiac treatment based on state and national comparisons has remained stable or improved slightly since the merger. The Department finds the average mortality rates and lengths of stay for cardiac cases are within acceptable limits.

3. <u>Surgical Capacity and Utilization</u>: PHHS concluded that there is a utilization problem at the East Campus based on a consulting firm's evaluation. That consulting firm found that the East Campus operating room utilization continues to be an overriding concern. The utilization is unchanged from last year and remains at 83% during primetime hours.

Surgeons report frequent bumping and cancellation of cases because there is little flexibility in the schedule. Nineteen percent of East Campus cases start after 4 p.m. In addition, 10% of total cases occur on Saturday or Sunday. The consulting firm conducted a systems analysis of the Preoperative Services including Preoperative Preparation, the East OR, the West OR, and the PACU.

This information is not consistent with the data that was gathered by PHHS for this monitoring. The data for this monitoring is based on operating room availability from 8 a.m. to 4 p.m. every day, including holidays and weekends. It includes only the time the patient is in the operating room, not the time it takes to prepare for the next case. The data gathered for this monitoring shows that Benefis reports a utilization rate of 53% overall for 2000.

As of this reporting period, decisions had not been finalized to respond to this report and the possible expansion of operating rooms.

PHHS recommends a continued discussion with the staff at Benefis to see how the issues identified by the consultant are being addressed. In addition, it may be necessary to modify the COPA reporting for this area of review.

The Department looks forward to addressing this issue with Benefis and PHHS representatives.

- 4. Rehabilitation Services: Based on studies of patient improvement levels, PHHS concluded that the hospital's rehabilitation unit is again meeting or exceeding regional and national averages. Length of stay and waiting times are also within acceptable parameters.
- Medical/Surgical Inpatients: There is no benchmarking available for infection control. As a benchmark, PHHS compared monthly infection rates in 1999/2000 with the lowest percentage rate of infections for the merged facility for 1996. While the data did not show any trends or cluster of infections, nosocomial infection rates (infections contracted while a patient is in the hospital) fluctuated but showed an overall increase in infection control rate at the East Campus. The nosocomial infection rates are reported for the East Campus only. There are no acute care services at the West Campus.

The hospital infection control coordinator has identified problems with seasonal health issues but could not identify trends or clusters. As the Department has previously observed, infection rates are a key component of quality monitoring, and the hospital should continue to pay careful attention

to this area. PHHS has stated that the current process for monitoring infections used by the COPA is no longer the standard used by the industry. Therefore, PHHS recommends that other indicators be selected to monitor quality of care. The Department will request that PHHS work with Benefis on this issue.

2. <u>JCAHO Evaluation</u>

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) completed its survey the week of October 18, 1999. The survey resulted in a three-year accreditation from the JCAHO with a preliminary score of 81%. JCAHO identified 18 "type 1" recommendations and six supplemental recommendations. Following Benefis' submission of plans to address each area of recommendation, the total score was raised to 94%.

3. Patient Satisfaction Surveys

The hospital continues to conduct patient satisfaction surveys in the areas of outpatient surgery, inpatient hospitalization, emergency room, and convenience care physician offices. These four areas are considered high patient-care areas that are susceptible to more problems and more patient complaints. The overall average score improved slightly over 1999. The most significant improvement was in staff courtesy which has been a significant issue in the past. The hospital has developed a new form

that is given to each patient who occupies a bed, with follow-up by the patient advocate of any complaints. The patient advocate reviews the form and contacts the patient if there is a complaint.

4. Patient Advocate

In compliance with section 2.17 of the terms and conditions, the hospital's patient advocate continues to receive and review patient inquiries and complaints about quality of care. For the 2000 reporting year, there were 104 complaints handled by the patient advocate. The average resolution time for patient complaints has fluctuated from a high of 13.1 to a low of 9.1 days since 1997.

The patient advocate continues to respond in a timely manner to patient inquiries and to resolve most complaints without additional intervention from either the Regional Community Health Council or PHHS. The system she is using to identify problems, contact the appropriate Benefis staff, and resolve the complaints to the patient's satisfaction appears to be successful and functioning smoothly.

The number of complaints received is relatively few considering the number of patients that are admitted and discharged. PHHS recommends a continuation of quarterly meetings to review complaints to ensure there is a continuation of the complaint process.

5. Staffing Ratios

The average number of both Registered Nurse (RN) hours per patient day and Licensed Professional Nurse (LPN) hours per patient day has not changed significantly over this period. No significant change in nursing staff numbers has been identified.

6. Physician Surveys

A professional staff survey was administered by Parkside Associates, Inc., in March 2000. Over 200 Physician surveys were sent, with over 100 returns, reflecting a significant increase over last year. The summary report reflects an overall score of 59, which is a 5% improvement over the last year and equal to the national average for the surveying organization. Respondents identified two areas where improvements could be made in the provision of hospital services, including patient scheduling and nursing care. The hospital states that both areas are targeted for improvement initiatives during FY 2000 and 2001.

The hospital made significant improvement in the "relationship with administration" category which improved by 38%. The Department is encouraged by the increased employee participation rates and by the hospital's improvement in several areas, and urges the hospital to continue its efforts to improve the remaining areas.

7. <u>Employee Surveys</u>

The results of the 1999 employee satisfaction survey were not completed and submitted until July 18, 2000. Benefis Healthcare ranks average in the attitudinal areas categorized as Department Head, Communications, Salary, Peer Work Relationships, Job Demands, and Resource Utilization. The hospital again received a score of -4 or lower, which is considered a "significant variance" from the norm, in nine categories (down from 10 in 1998): Administration, Job Security, Job Satisfaction, Personnel Policies, Job Mobility, Supervision, Benefits, Evaluations, and Participation. When compared with the previous year's survey, however, Benefis showed significant improvement in the areas of Job Mobility, Administration, Department Head, Communications, Salary, Participation, and Evaluations.

C. Charitable Contributions

The hospital provided \$4.4 million in charity care in 2000, which was more than the \$4 million dollars of charity care in 1999 and a 159% increase over premerger levels. Benefis continues to utilize higher income thresholds in its charity care policies, allowing for the provision of charity care to more patients.

D. Community Health

In compliance with section 3.3 of the COPA, the volunteer Regional Community Health Council made significant contributions to community health in 2000. Most

notable was its publication and distribution of bookmarks and brochures. These publications were designed for the purpose of educating the public on the Council's goals and mission statement. They were distributed through healthcare providers, clinics, and public libraries. The bookmark encouraged community members to ask health-related questions on issues ranging from the side effects of treatment options to the availability of local treatment. The Council has also made plans to create an inventory of health care services available in the region.

Finally, the Council experienced some difficulty during the reporting period related to turnover among its membership and low turnout for meetings. The Council shifted to a quarterly meeting schedule in 2000, with the goal of focusing its efforts on productive but less frequent meetings to maximize participation.

Benefis itself also provided numerous community health activities, including educational awareness and prevention programs, health screenings, and continuing education workshops throughout the state.

E. Access to Health Care Services

While the services offered at each of the two facilities, viewed independently, have changed significantly with consolidation, the overall distribution of service areas has not changed. During 1999 and 2000 the facility experienced a decline in outpatient surgeries. This is associated with competition from a competing surgery center, which now operates

in Great Falls. The hospital has an ownership interest in another surgery center operated by the Great Falls Clinic.

In 2001, Benefis transferred ownership of its home health department to Spectrum Medical, a for-profit subsidiary of Benefis. Benefis is also a partner in a joint venture which is currently constructing a new fitness center to replace Healthworks. The Department finds that Benefis is in compliance with section 4 of the terms and conditions pertaining to the provision of services.

F. Other Conditions

The Department finds that Benefis is complying with other terms and conditions of the COPA not specifically discussed previously in these findings.

III. CONCLUSION

Benefis completed most of its merger-related consolidations and renovations prior to 2000. A notable continuation in 2000 was the consolidation of physical therapy and orthopedic services at the West Campus. There are several renovation and construction projects planned or in progress that are related to modernization rather than consolidation. Benefis has satisfied the revenue cap requirements for calendar year 2000 and continues to offer prices lower than other large and medium-sized Montana hospitals. The Department commends Benefis for honoring its commitment to pass merger-related savings on to Montana consumers through lower prices and increased charity care.

Benefis continues to make significant progress toward stabilizing the effects of the consolidation on its workforce and its patients. Hospital management continues to work hard to identify issues of concern and areas for improvement, and has shown a high level of commitment to continuous improvement in patient care and employee satisfaction.

Comments on these preliminary findings will be accepted until December 8, 2001.

Comments should address the extent to which the consolidation has affected hospital-based health care costs, quality of health care services provided by the hospital, and accessibility of health care services. Comments may be sent to the Department at the following address:

Agency Legal Services Division Montana Department of Justice P.O. Box 201401 Helena, MT 59620-1401

DATED this _____ day of November, 2001.

MIKE McGRATH
Attorney General

15